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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development
Human rights bodies and mechanisms

Research-based report of the Human Rights Council Advisory Committee on the ways and means to enhance international cooperation in the field of human rights

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I. Introduction

1. In its resolution 13/23 on enhancement of international cooperation in the field of human rights, the Human Rights Council requested the Human Rights Advisory Committee to explore ways and means to enhance international cooperation in the field of human rights, taking into account the views of States and other relevant stakeholders, and to submit proposals in that regard to the Council at its nineteenth session. In order to give effect to that mandate, the Advisory Committee, pursuant to its recommendation 5/4, established a drafting group chaired by Dheerujlall Seetulsingh. Emmanuel Decaux was appointed the first Rapporteur of the drafting group. Upon his resignation from the Committee, he was replaced by Laurence Boisson de Chazournes. Following its consideration at its sixth session of a working paper on the subject of the mandate submitted to it by the drafting group, the Committee considered a progress report on the same subject at its seventh session and submitted that report to the Council at the Council's sixteenth session. At that session, the Committee also prepared and distributed a questionnaire to seek further views from States and relevant stakeholders. Following its analysis of the relevant texts and the responses received to its questionnaires, the Committee submitted its final report to the Human Rights Council at its nineteenth session (A/HRC/19/74).

2. A multi-stakeholder seminar on the enhancement of international cooperation in the field of human rights was organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) on 15 February 2013. The seminar discussed, among other things, the final report of the Advisory Committee. Pursuant to Council resolution 19/33, a report on the seminar was submitted to the Council at its twenty-third session (A/HRC/23/20).

3. At its twenty-third session, in resolution 23/3, the Council requested the Advisory Committee to prepare, in consultation with States, a more focused and in-depth study on the ways and means to enhance international cooperation in the field of human rights, including, but not limited to, the identification of areas where further progress could be made, taking into account responses received as a result of further consultations with States, and to submit a progress report to the Council at its twenty-sixth session.

4. In order to give effect to resolution 23/3, the Advisory Committee, pursuant to its recommendation 11/2, set up a drafting group at its eleventh session consisting of Saeed Mohamed Al Faihani, Laurence Boisson de Chazournes, Mario Luis Coriolano, Latif Hüseynov, Alfred Ntunduguru Karokora, Obiora Chinedu Okafor (Rapporteur), Katharina Pabel and Dheerujlall Seetulsingh (Chair), as well as Shigeki Sakamoto, whose term ended on 30 September 2013. Subsequently, Mikhail Lebedev and Jean Ziegler also joined the drafting group. The Committee tasked the drafting group with the preparation of a draft progress report to guide the in-depth discussion to be held at its twelfth session, in February 2014. The drafting group also held preliminary discussions on the mandate during that session and, after receiving approval from the Advisory Committee as a whole, prepared a questionnaire that was then circulated to States. The Rapporteur of the drafting group subsequently prepared a draft report, which was considered and endorsed by the drafting group in the period between the eleventh and twelfth sessions of the Committee.[1] That draft formed the basis for the present progress report.

[1] The members of the drafting group are grateful to Aaron Stone and Basil Ugochukwu of the Osgoode Hall Law School, York University, Toronto, Canada, for their important input during the drafting of the present report.

II. Some key challenges to international cooperation in the field of human rights

5. The challenges to international cooperation in the field of human rights are well known and therefore will not be discussed here in any depth. Yet, given the ways in which, too often, they can seriously set back progress towards the realization of human rights the world over, they deserve some measure of discussion in any study on the subject. As the Advisory Committee has noted (see A/HRC/19/74, paras. 23-25), the overall tone of the texts conferring a mandate on the Human Rights Council is one of constructive international dialogue and cooperation. However, such dialogue and cooperation towards the realization of human rights everywhere is unlikely to be constructive without mutual tolerance and respect (see Council resolution 13/23).[2] This kind of cultural sensitivity should not of course imply cultural absolutism.[3] As importantly, significant levels of selectivity can weaken moral authority and capacity to rapidly and robustly foster a culture of human rights in many parts of the world. It bears mentioning here that the decision to create and implement the universal periodic review process of the Human Rights Council was driven in part by this kind of realization (see General Assembly resolution 60/251, para. 4). As the Committee has also noted, international cooperation in the field of human rights is also harmed when it is reduced in any appreciable degree to a mere juxtaposition of national interests or the logic of power relations (A/HRC/19/74, para. 35) A constructive dialogue that drives and reflects meaningful international cooperation is far less likely to take place if it is not based on the idea that human rights knowledge ought to circulate in a multidirectional way among the world's peoples. As importantly, there is a growing realization within and beyond the Human Rights Council of the seriousness of the negative impact of the inadequate resources available to assist certain countries with their participation in the universal periodic review process and in their the implementation of the recommendations that result therefrom (see Council resolutions 19/33 and 23/3).

III. Deepening civil society involvement

6. The important roles played by civil society groups, especially non-governmental organizations, in the human rights field are widely appreciated and a detailed discussion of that subject need not detain us here. The critical task that is now before the United Nations in general and the Human Rights Council in particular is to find ways and means of optimally harnessing the potential of those groups to contribute to the human rights work of the United Nations. As the Advisory Committee has suggested (see A/HRC/19/74, para. 49), it is now time to go beyond the usual rhetoric and move towards practical institutional changes that will give effect to the apparent consensus in the Council on the need to deepen the involvement of civil society actors in international cooperation in the human rights area.

7. For one, as the Advisory Committee suggested in its first report on the present subject, the Committee on Non-Governmental Organizations, a standing committee of the Economic and Social Council which is currently made up entirely of States, may need to be restructured to include in some, perhaps advisory, form the accredited and legitimate representatives of civil society organizations. In this connection, the tripartite model

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[2] D.A. Bell, "The East Asian challenge to human rights: reflections on an East West dialogue", in *Human Rights Quarterly* vol. 18, No. 3 (August 1996), pp. 641-667; and J. Donnelly, "The relative universality of human rights" in *Human Rights Quarterly*, vol. 29, No. 2 (May 2007), pp. 281-306.

[3] C. Nyamu, "How should human rights and development respond to cultural legitimization of gender hierarchy in developing countries?" in *Harvard International Law Journal*, vol. 41, No. 2 (Spring 2000), p. 381.

adopted by the International Labour Organization (ILO) may be instructive. At ILO, all the key stakeholders in the labour relations field (States, employers' groups and labour unions) are significantly accommodated and afforded a meaningful standing and voice within the main organs of the organization.

8. Second, local civil society organizations, especially those in the developing world, tend to be underrepresented among the groups that actually participate directly, actively and meaningfully in the human rights work of the United Nations. This raises important issues regarding the global inclusiveness, accountability and legitimacy of the cohort of such organizations which tends to dominate the space reserved for "other stakeholders" within the United Nations human rights system.[4] Clearly, there is thus a need to find ways and means of at least reducing this apparent inclusion-deficit in the representation of civil society organizations within that system. One suggestion is to reform the way in which access to United Nations debates is afforded to them. For example, rather than requiring all such organizations that wish to participate in the human rights work of the United Nations to first obtain consultative status, a second path to access could be created which would allow local civil society organizations in developing countries that have been granted similar recognition and status by their regional and/or national human rights bodies to gain, in consequence, automatic access to United Nations human rights institutions.

IV. Enhancing the involvement of national human rights institutions

9. The focus here is on how the contributions of national human rights institutions to the human rights work of the United Nations can be optimally enhanced. It should be noted at the outset that formal and informal global or regional-level cooperation among such institutions is now the norm rather than the exception. Within the framework and the structure of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, which is registered and based in Geneva, and at the continental and other levels, national human rights institutions the world over have met regularly to share experiences and best practices, and to advocate new themes enhancing the cause of human rights.[5] There is significant evidence, for instance from the International Coordinating Committee's engagement with the Nigerian national human rights institution, that this way of interaction and cooperation among institutions, and especially their mechanisms for classifying and sanctioning those institutions which do not meet their laid down standards, can produce important dividends for the effort to realize human rights. However, if the full potential of the national human rights institutions to contribute to the realization of human rights is to be harnessed by the United Nations system, the involvement of those bodies and their various global and regional associations in United Nations human rights work must be deepened. This can be done, for example, by finding ways to resource them more adequately, including through lending more support staff, and information exchanges between similarly situated institutions. Responses received to the questionnaires distributed by the Advisory Committee suggest a widespread awareness among States of the need to strengthen these bodies. They also tend to

[4] K. Anderson, "The Ottawa convention banning landmines, the role of international non-governmental organizations and the idea of international civil society" in *European Journal of International Law*, vol. 11, No. 1 (2000), p. 92; and D.B. Reiser and C.R. Kelly, "Linking NGO accountability and the legitimacy of global governance" in *Brooklyn Journal of International Law*, vol. 36, No. 3 (2011), p. 1020.

[5] D. Seetulsingh, presentation at the Seminar on the Enhancement of International Cooperation in the Field of Human Rights, Geneva, 15 February 2012.

acknowledge that some State-to-State cooperation aimed at achieving these ends already takes place.

V. Enhancing efforts to realize the right to development

10. There is little disagreement, if any, within and beyond the Human Rights Council that international cooperation is required to address the basic structural obstacles, such as poverty and underdevelopment, to the realization of many economic, social and cultural rights, as well as certain civil and political rights.[6] In this regard, the comparative advantage enjoyed by United Nations human rights bodies, especially the Human Rights Council, lies in the area of finding ways and means to give effect to the right to development both within and between States.

11. Many States agree that the post-2015 development agenda should adhere to human rights principles, including the principle that all peoples are entitled to the enjoyment of the right to economic, social and political development, as set out in, for example, the Declaration on the Right to Development and article 22 of the African Charter on Human and Peoples' Rights.[7] The basic emergent idea here is that the effort to realize the right to development ought no longer to be based primarily on a concept of "charitable giving" but should be founded on the normative entitlement of every human being and society to be free from extreme poverty and deprivation, one that ought to be stoutly supported and enhanced by a system of accountability. Instructively in this regard, in its recent report, the High-Level Panel on the Post-2015 Development Agenda[8] called on the United Nations, its Member States, regional organizations, civil society and all concerned to make the following "five big transformative shifts":

(a) Move from reducing to ending poverty (with no one left behind);

(b) Put sustainability at the core of development;

(c) Transform economies for jobs and inclusive growth;

(d) Build peace, as well as effective, open and accountable institutions for all;

(e) Forge a new global partnership, based at least in part on mutual accountability.

12. The prominence and emphasis given to accountability in the conception and articulation of these "five big transformative shifts" reflect the gradual congealing in our time of a new consensus on the ways to advance the development agenda. It is a reflection of this gradually emerging consensus that the Secretary-General, in his report on the post-2015 development agenda,[9] also called for the entrenchment of accountability in the conception and execution of that agenda. Indeed, at the very least, in paragraph 75 of that

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[6] Z. Kedzia, statement before the Advisory Committee on international cooperation in the field of human rights, Geneva, 13 August 2013; and Human Rights Council resolution 23/3.

[7] Office of the United Nations High Commissioner for Human Rights, *Realizing the Right to Development* (Geneva, OHCHR, 2013).

[8] See *A New Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development*, available at www.post2015hlp.org/the-report.

[9] "A life of dignity for all: accelerating progress towards the Millennium Development Goals and advancing the United Nations development agenda beyond 2015" (A/68/202 and Corr.1). See also S.P.Marks, ed., *Implementing the Right to Development: The Role of International Law* (Geneva: FES, 2008), p. 131; and O.C. Okafor, "The status and effect of the right to development in contemporary international law: towards a South-North entente" in *African Journal of International and Comparative Law*, vol. 7 (1995), p. 865.

report, which is itself based in part on the High-Level Panel's report, it is stated firmly that, if the kind of sustainable development agenda that the Secretary-General desires is to take root, there is a need to establish a participatory monitoring framework for tracking progress, and mutual accountability mechanisms for all stakeholders. In paragraph 81 of the same report, reference is made to the need to ensure that the international community is equipped with the right institutions and tools for addressing the challenges of implementing the sustainable development agenda at the national level. Thus, the idea that everyone involved in the development process the world over must be fully accountable appears to have a central, and even critical, place in current United Nations thinking about the ways and means of advancing the development agenda post-2015.

13. Against this background, one way of enhancing international cooperation in this important aspect of the human rights area is to collect and list core violations of the right to development (many of which already exist as hard law) in a revised and enhanced Declaration on the Right to Development with an in-built and robust tracking, reporting and monitoring mechanism, or perhaps even in a new treaty on the right to development (which the Council has been exploring for some time now). In this respect, article 22 of the African Charter on Human and Peoples' Rights and the increasing number of well-reasoned decisions in which it has been interpreted and applied to real-life situations in the African context are a kind of forerunner. For example, the now celebrated *Endorois* case decided by the African Commission on Human and Peoples' Rights and the fact of the compliance of Kenya with it to a significant extent serve as a pointer to what the future could hold in this regard at the global level.[10] Other important decisions issued by the African Commission in the present regard include *D. R. Congo v. Burundi, Rwanda and Uganda*,[11] where it found a violation of the right to development; *Association Pour la Sauvegarde de la Paix au Burundi v. Tanzania et al*;[12] and the *Southern Cameroons* case.[13]

VI. Deepening South-South cooperation in the human rights area

14. South-South cooperation is already well recognized within the United Nations system as a way of strengthening its work across the board. According to the United Nations Office for South-South Cooperation, this form of cooperation is a broad framework for collaboration among countries of the South in the political, economic, social, cultural, environmental and technical domains. Involving two or more developing countries, it can take place on a bilateral, regional, subregional or interregional basis. Developing countries share knowledge, skills, expertise and resources to meet their development goals through concerted efforts … Collaboration in which traditional donor countries and multilateral organizations facilitate South-South initiatives through the provision of funding, training

[10] *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of the Endorois Welfare Council v. Kenya*, 27th Annual Activity Report of the African Commission on Human and Peoples' Rights, 2009–2010, Annex V. See also Minority Voices Newsroom, www.minorityvoices.org/news.php/fr/1462/Kenya-mrgs-head-of-law-visits-endorois-community-in-the-rift-valley.

[11] Communication 227/99, 33rd Ordinary Session of the African Commission on Human and Peoples' Rights, May 2003.

[12] Communication 157/96, 33rd Ordinary Session of the African Commission on Human and Peoples' Rights, May 2003.

[13] Communication 266/2003, 26th Activity Report 2009, Annex IV.

and management and technological systems as well as other forms of support is referred to as triangular cooperation.[14]

15. According to the same office, the key feature of South-South cooperation is that it is initiated, organized and managed by developing countries themselves. Yet non-State actors do actively participate. An important goal of this approach to international cooperation is to increase the quantity and enhance the quality of international development cooperation. A key benefit of this form of cooperation is the use of experience and capacity that already exist and the development of new capacities in developing countries. A second benefit is that, as is well recognized now, it tends to rankle less and be received better in the receiving country when the donor is a similarly situated country. Another benefit of such cooperation is that it is often significantly less expensive to execute than other forms of international cooperation.

16. Clearly, the human rights field does fit, and indeed is actively included, within this rubric. This much is recognized in the concluding section of the report of the seminar on the enhancement of international cooperation in the field of human rights convened by OHCHR in Geneva in February 2013 (A/HRC/23/20). The more important questions for present purposes are how to expand and deepen the utilization of this important form of international cooperation in the human rights field and what role the Human Rights Council can play in attaining those objectives. How, for example, can the experience and capacity that already exist within certain countries of the South be deployed in other developing countries which are not as endowed in the relevant respect, thereby developing new human rights resource capacities in the latter countries in a less expensive and more effective way? And what role, if any, exists for triangular cooperation in this regard?

17. To take the African continent as an example, some of the countries there are much richer in terms of human resources than others. It will often be significantly cheaper, more socioculturally and politically sensitive and therefore more effective in the long run to find ways of deploying human rights experts from countries that are more endowed in this regard to assist countries in the region which are not as well endowed. But because none of these countries is financially rich, triangular cooperation has an important role to play in boosting available funding and providing important technology to such projects. Triangular cooperation involving OHCHR could also be utilized as a quality assurance mechanism.

18. In this connection, long-existing programmes such as the Technical Aid Corps scheme of Nigeria, which is almost entirely funded by that country on its own, serve as important models and guides for the kinds of programmes and projects which the Human Rights Council, through OHCHR, could take steps to collaborate with, provide greater funding and support to and, in the end, harness.[15] Already the scheme collaborates actively with the Commonwealth Secretariat and has signed a memorandum of understanding with that body. Established in 1987, it assists States in Africa, the Caribbean, the Commonwealth and other specific regions in their socioeconomic development efforts, through the posting of qualified persons to serve for two-year terms in the relevant countries, in accordance with their expressed needs. A key expressed goal of this programme is to share Nigerian know-how and expertise with the recipient countries. Thus far, over 35 countries have benefited from this scheme.

19. As some countries suggested in response to the questionnaires distributed by the Advisory Committee, these kinds of South-South exchanges should be expanded and

[14] United Nations Office for South-South Cooperation, "What is South-South cooperation?", available from http://ssc.undp.org/content/ssc/about/what_is_ssc.html.

[15] Directorate of Technical Aid Corps, available from www.tacng.org/brief_history.php.

deepened with the support of the international community, especially the Human Rights Council.

VII. Deepening human rights education

20. Given that, even with all their limitations, human rights now appear to be all that we have to interrogate the barbarisms of power[16] and that human rights education and training is a key way of realizing human rights, there is an imperative need to take such education and training extremely seriously as an aspect of international cooperation in the field of human rights. With the help of the Advisory Committee, the Human Rights Council has made significant efforts to meet this need. In March 2011, the Council adopted the United Nations Declaration on Human Rights Education and Training, based on a draft produced by the Advisory Committee. This text was later adopted by the General Assembly in its resolution 66/137. Among other things, the Declaration makes the important point that human rights education should become an integral part of the educational curriculum, a point that many States have also emphasized. As importantly, article 12 of the Declaration lays stress upon the need for international cooperation at all levels to support and reinforce efforts at the local level to implement human rights education and training.[17] The emphasis on human rights education as being one of the most effective means of promoting human rights cannot be gainsaid.[18] It is one of the most practical methods of achieving international cooperation in the human rights field.[19]

21. Yet a partial paradigm shift may be required if international cooperation in the conception and execution of the project of human rights education is to achieve its full potential. It bears emphasizing here that human rights education ought to be founded much more than has hitherto been the case on a constructive dialogue among peoples and civilizations, and far less on an alienating and unhelpful sort of monologue in which one section of the world instructs the rest on human rights. While countries do differ in the degree to which they respect human rights norms, nowhere in the world is absolute respect for human rights as yet a mass cultural fact.[20] So every society has something to learn from others. Thus, human rights education cannot be a one-way traffic and cannot flow in a unidirectional manner from one section of our global neighbourhood to the others.[21] Genuine international cooperation in the area of human rights education ought to involve two-way or multidirectional exchanges of information, ideas and knowledge. This much is recognized in the concluding section of the report of the seminar on the enhancement of international cooperation in the field of human rights, convened by OHCHR in Geneva in February 2013 (A/HRC/23/20, para. 52).

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[16] U. Baxi, *The Future of Human Rights* (Delhi, Oxford University Press, 2006), p. 4.

[17] D. Seetulsingh, presentation at the Seminar on the Enhancement of International Cooperation in the Field of Human Rights, Geneva, 15 February 2012.

[18] Ibid.

[19] Ibid.

[20] P. Houtondji, "The master's voice – remarks on the problem of human rights in Africa" in UNESCO, *Philosophical Foundations of Human Rights* (Paris, UNESCO, 1986), pp. 320–332.

[21] O.C. Okafor and S.C. Agbakwa, "Re-imagining international human rights education in our time: beyond three constitutive orthodoxies" in *Leiden Journal of International Law*, vol. 14 (2001), pp. 563-590.

VIII. Strengthening the global infrastructure for human rights cooperation

A. Universal adherence to human rights texts and bodies

22. As the Advisory Committee noted in its first report on international cooperation in the field of human rights (A/HRC/19/74), a major priority of such international cooperation should be securing the universal application of international human rights instruments, in line with the objective established at the Vienna World Conference on Human Rights. Since the introduction and establishment of the universal periodic review process in 2006, the rate of human rights treaty ratification has been increasing exponentially.[22] But ratification of all such treaties by every State has not yet been attained. In consciousness-raising activities, including the universal periodic review process itself, increased emphasis needs to be placed on the necessity for universal ratification and application. As the Committee also noted in its first report, the Human Rights Council should launch a "reservations dialogue" to persuade States to withdraw reservations that serve no purpose and to refrain from entering reservations that are contrary to the purposes and objectives of the treaty concerned (ibid. para.41). States should also be encouraged, where necessary, to enter declarations submitting themselves to scrutiny by bodies set up under such treaties. Additionally, international cooperation should focus on bringing together all States and actors to work for the promotion and protection of human rights. Every effort should be made to ensure the universal participation of States in such cooperation.

B. Consolidating and synchronizing State reporting

23. Given that many States, including those surveyed by the Advisory Committee for the present report, have complained of excessive reporting obligations, it is increasingly being recognized that there is a need to find ways and means of consolidating and synchronizing State reporting to the various United Nations human rights bodies, so as to reduce the associated workload for States, relieve some of the great pressure that has been put on the rather scarce resources of very many developing and smaller countries, promote efficiency and enhance holistic reporting by target States.[23] This is essential to support their ability to engage in international cooperation in the human rights field. One current proposal is to find a way to harmonize the periodicity of State reporting by ensuring that every State submits only one comprehensive report every set number of years to all the treaty bodies.[24] For the avoidance of doubt, however, the universal periodic review reporting process would remain outside the treaty body reporting system.

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[22] Suzanne Egan, "Strengthening the United Nations human rights treaty body system" in *Human Rights Law Review*, vol. 13, No. 209 (2013), p. 211.

[23] See Felice D. Gaer, "A voice not an echo: universal periodic review and the UN treaty body system" in (2007) *Human Rights Law Review*, vol.7, No. 109 (2007), pp. 117–118; and statement of the United Nations High Commissioner for Human Rights at the twelfth session of the Human Rights Council, 14 September 2009, available from www2.ohchr.org/english/bodies/HRTD.

[24] Allehone Mulugeta Abebe, "Of shaming and bargaining: African States and the universal periodic review of the United Nations Human Rights Council" in 9 *Human Rights Law Review*, vol. 9, No.1, (2009), p. 8; and Felice D. Gaer, op.cit., p. 215.

C. Strengthening the subsidiary bodies and special procedures of the Human Rights Council

24. As confirmed by the responses of many States to the survey administered by the Advisory Committee, there is widespread realization that the financial and human resources available to assist the subsidiary bodies and special procedures of the Human Rights Council in undertaking their work is at best limited.[25] Against this background, the Council, in its resolution 16/21, requested the Secretary-General to ensure the availability of adequate resources within the regular OHCHR budget to support the full implementation by special procedures of their mandates (para. 32). Further, the Council recognized the need for extra funding to support the work of the special procedures and welcomed further voluntary contributions by Member States, emphasizing that those contributions, to the extent possible, should be unearmarked (para. 33). The Council should step up its commendable efforts to ensure that its subsidiary bodies and special procedures are resourced adequately. Note should also be taken of the fact that there is a particularly urgent need to better resource the Advisory Committee, which is not even resourced at the inadequate special procedure level and whose members currently have to rely to a significant degree on resources from outside the United Nations system to undertake their work in an effective manner.

25. Another kind of challenge that is faced particularly by the special procedures is the reluctance of all too many States to cooperate with them, especially in the area of issuing standing invitations to them to visit their countries.[26] This is so despite the Council's regular reaffirmation of the need for States to cooperate with the special procedures (see Council resolution 16/21, para. 23). Thus far, fewer than 40 per cent of Member States have issued such standing invitations. Yet standing invitations represent an opportunity for States to make a cooperative gesture by inviting special procedure mandate holders to perform their work. While maintaining the voluntary character of the issuance of standing invitations, the Council should consider establishing an opt-out system in which States that do not wish to issue them must take active steps to opt out, and are taken to have consented to issue standing invitations if they do not opt out of doing so before an agreed date.

26. There is also a need for greater coordination between the Council's subsidiary bodies and its special procedures, as well as within each of those categories. There is of course a Special Procedures Coordination Committee, established in 2005, whose main function is to facilitate coordination among the special procedures, and between them and OHCHR, civil society and the broader United Nations human rights system.[27] However, more could be done in this regard. For example, special procedure mandate holder visits to a particular country could be coordinated and conducted jointly to reduce the amount of resources and time host States spend cooperating with them, thereby increasing the willingness and ability of States to extend such cooperation and ultimately enhancing this aspect of international cooperation in the field of human rights. Special procedures and the Advisory Committee should also interact regularly, at least annually, to exchange ideas and share knowledge.

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[25] Paulo Sergio Pinheiro, "Being a special rapporteur: a delicate balancing act" in *The International Journal of Human Rights*, vol.15 (2011), pp. 162-171.

[26] Ted Piccone, "Catalysts for rights" Brookings Institute (2010), p. 9, available from www.brookings.edu/~/media/research/files/reports/2010/10/human%20rights%20piccone/10_human_rights_piccone.pdf; and Surya P. Subedi, "Protection of human rights through the mechanism of UN special rapporteurs" in *Human Rights Quarterly*, vol. 33, No. 201 (2011), p. 211.

[27] Ted Piccone, op.cit., p. 35.

D. Improving coordination with and among regional bodies

27. As the Advisory Committee observed in its first report on international cooperation in the field of human rights, an aspect of international cooperation that is still all too often neglected is the role of regional systems (A/HRC/19/74, para. 43). Two main dimensions of this aspect of international cooperation may be emphasized: (a) cooperation among regional bodies, including greater interaction among those of a similar socioeconomic and political background, and (b) coordination between regional bodies on the one hand and the United Nations human rights system on the other. In both cases, the main goals are to share best practices among the relevant bodies in as deep and widespread a manner as possible, and to create operational efficiencies.

28. To that effect, both dimensions seem to require similar kinds of measures to broaden and strengthen them. Chief among such measures are the expansion and deepening of exchanges of staff, information, knowledge and technology among the relevant bodies, and the institutionalization of programmes of joint country visits and other joint activities among those bodies. However, such improvements in international cooperation cannot yield an optimal harvest unless certain operational steps are taken or enhanced. In this regard, it is suggested that each regional body and the Human Rights Council/OHCHR should establish a high-level focal point (which can either be a person or an office) to provide leadership, impetus and visibility in this crucial area of achieving greater coordination and cooperation with and among regional human rights bodies. Second, the greater use of technology is recommended to overcome distance, eliminate a significant amount of travel time and greatly reduce costs.

E. Strengthening the universal periodic review system

29. Although the universal periodic review process has now entered its second cycle, and the participation of civil society organizations was generally embraced and seen as a positive contribution during the first cycle, cooperation with civil society stakeholders, including non-governmental organizations, continues to be a point of disagreement among States.[28] For one thing, while recognizing the multiple opportunities which already exist for stakeholder involvement in the review process, States have found the push for enhanced stakeholder involvement in the process to be a difficult topic to agree upon.[29] One suggestion for enhancing the involvement of civil society organizations in the review process was that the Troika should arrange an informal meeting with the relevant national civil society organizations and national human rights institutions immediately before hearings in the Working Group on the Universal Periodic Review in order to become better informed about recent developments in the countries at issue and to hear critical evaluations of the country reports under review.[30] However, such requests for greater cooperation with stakeholders were not fulfilled for the second review cycle.[31] Second, neither in General Assembly resolution 60/251 nor in Human Rights Council resolution 5/1 is the term "stakeholders" defined.[32] In practice, though, the inclusion of stakeholders in the universal periodic review process is generally associated with non-governmental organizations. This association could be carefully expanded to include other stakeholders, such as the regional

[28] Allehone Mulugeta Abebe, op.cit., p. 26.

[29] Ibid.

[30] Theodor Rathgeber, "New prospects for human rights? The Human Rights Council between the review process and the Arab Spring", German Institute for Human Rights (2012), p. 5.

[31] Ibid.

[32] Ibid.

human rights bodies. A more meaningful discussion on the role of regional human rights bodies and other entities should help to expand the vague definition of "stakeholder" in the review process; and cooperation with a broader variety of stakeholders will definitely enhance that process.

30. The universal periodic review clearly represents an opportunity to foster cooperation between Member States, United Nations mechanisms and civil society. The review process allows us to identify the areas of human rights that the State under review decides to strengthen. There is a lot of practical expertise on human rights in developing countries that have recently experienced massive and systematic violations of human rights, and which were able to recover quite well in terms of their practice of democratic governance and the strengthening of their public policies on human rights. The Council should develop a system of fostering cooperation among Member States in order to ensure that the recommendations accepted after the review are implemented.

31. Another issue that may have to be addressed in this connection is a rationalization, tightening and greater focusing of the large number of recommendations that flow from the review process so as to make them more manageable for the target States to grapple with. This will likely enhance their ability to cooperate as fully as possible in this regard.

F. Improving the follow-up system

32. It is now widely recognized that the United Nations human rights system is beset with significant follow-up problems. There is therefore widespread agreement that, if the goals of international cooperation in the field of human rights are to be more rapidly and robustly realized, the system of follow-up to the recommendations emanating from, inter alia, the special procedures, the universal periodic review process and the treaty bodies requires great improvement. The lack of adequate resources for the special procedures to follow up on their recommendations has been identified as one major weakness in this regard.[33] The provision of such resources to the special procedures and greater coordination of their follow-up efforts with the universal periodic review follow-up processes are among the suggested ameliorative measures.[34]

33. In the latter regard, it is particularly noteworthy that, in providing for specific amendments to the universal periodic review system to be implemented during its second cycle, the Human Rights Council, in resolution 16/21 and decision 17/119, stated that the second and subsequent review cycles should focus on follow-up to the accepted recommendations from the first cycle. However, despite that proposed emphasis on follow-up during the second and subsequent cycles, the follow-up phase is still viewed as the weakest phase of the review process, as there is little structure to guide States other than a suggestion that they provide a voluntary mid-term report to the Council. This lack of structure and the voluntary nature of the mid-term report might affect the effectiveness of international cooperation in the review process. It is therefore suggested that detailed guidelines and/or a model mid-term report be developed by OHCHR to assist States in the preparation of mid-term reports. In addition, rather than merely stating that the submission of mid-term reports by States is voluntary, the Council could attach an opt-out requirement to that process, which could encourage and foster a greater degree of responsiveness among States. States would then be asked to take active steps to opt out of the submission of mid-term reports and States which did not do so by a set date would be taken to have voluntarily assumed an obligation to comply.

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[33] Surya P. Subedi, op.cit., p. 217.

[34] Ted Piccone, op.cit., p. 42.

34. Another suggestion made by some States with regard to follow-up to the universal periodic review is that donor countries that provide foreign aid to other countries should tailor their programmes, at least in part, towards addressing specific review recommendations made to relevant recipient States. It is hoped that this will help create greater and much-needed synergy between international cooperation in the human rights field and international development efforts.

35. With regard to improvement of follow-up to recommendations of the treaty bodies, it has been suggested that there should be better coordinated and more inclusive follow-up procedures, and increased cooperation between States and those bodies. One possibility is the development of a specific inter-committee follow-up mechanism for all the treaty bodies.[35] Cooperation is not limited to ratification, coordination or dialogue, but also concerns compliance with and follow-up on obligations. A monitoring body that would dedicate its entire resources to encouraging cooperation in the follow-up phases of the work of the treaty bodies would greatly enhance this goal. In this connection some reflection on putting existing bodies to use may be required.

IX. Strengthening the voluntary funds

36. There are two funds at issue here: the Universal Periodic Review Voluntary Trust Fund established pursuant to Human Rights Council resolution 6/17 to facilitate the participation of developing countries, particularly least developed countries, in the universal periodic review mechanism; and the Voluntary Fund for Financial and Technical Assistance established pursuant to the same resolution to help, in conjunction with multilateral funding mechanisms, countries implement the recommendations emanating from the universal periodic review, in consultation with, and with the consent of, the country concerned. The contributions that those two funds have made, and can potentially make, to international cooperation in the field of human rights are not in doubt. There is in fact growing demand from States for access to the inadequate financial assistance available from the funds. One indicator of this trend is that, since early in 2013, OHCHR has reviewed more than 20 new requests from various countries for funding from the Voluntary Fund for Financial and Technical Assistance to support their implementation of review recommendations (see A/HRC/24/56, para.20). As at early in 2012, 67 requests were at various stages of being processed or being funded through the Universal Periodic Review Voluntary Trust Fund.[36]

37. It was against this background that the Human Rights Council, in paragraphs 14 and 19 of its resolution 16/21, called for the strengthening of the two funds. In that resolution the Council concluded that the Voluntary Fund for Financial and Technical Assistance should be strengthened and operationalized in order to provide a source of financial and technical assistance to help countries implement the recommendations emanating from their review. The Council also requested that the Universal Periodic Review Voluntary Trust Fund should be similarly strengthened and operationalized.

38. Despite the consensus in the Human Rights Council that both the funds need to be strengthened, there may not be universal agreement as to the exact measures to be taken in this regard. One proposal in respect of both funds is to find more systematic and assured ways of increasing the resources available to them. This is absolutely necessary given the rising and genuine demand for access to the resources of the two funds, the low incidence

[35] Allehone Mulugeta Abebe, op.cit., p. 234.

[36] OHCHR, "Requests for financial assistance under the Voluntary Fund for participation in the UPR mechanism", available at ww.ohchr.org/EN/HRBodies/UPR/Documents/VPUFinancialRequest.pdf.

of State contributions to them and the gross inadequacy of the resources currently available from them. A combination of measures is probably required if the goal of strengthening the resource base of the funds is to be attained any time soon.

39. First, there is a need to shift from the current opt-in voluntary funding system to an equally voluntary opt-out system that could encourage and foster a greater degree of responsiveness among States to the resource needs for the two funds. States which do not belong to the category of least developed countries would be asked to take active steps to opt out of the voluntary obligation to contribute to the funds. States which do not do so by a set date would then be taken to have voluntarily assumed an obligation to fund the relevant fund by a set moderate baseline amount.

40. Second, an expanded notion of what constitutes a contribution to these funds may be required, so that in-kind contributions of human resources and technological inputs are seen as equally important (see A/HRC/19/50). This should be especially the case for the Voluntary Fund for Financial and Technical Assistance, which the Human Rights Council in its resolution 6/17, established explicitly to become a source of both financial and technical assistance. In-kind contributions may take the form of donations of technically qualified and quality-assured human resources from the relevant State. In this connection, the Technical Aid Corps scheme of Nigeria can serve as a model.

41. Third, as many States and stakeholders have suggested, much more attention than hitherto needs to be paid to non-traditional donors and South-South cooperation (see Council resolution 23/3 and A/HRC/19/50). As some States and stakeholders have also urged, broadening the donor base of the two funds is a necessity in the current circumstances and OHCHR should be mandated to enhance its dialogue with the representatives of such countries and bodies. Also, if the notion of what constitutes a donation is expanded to the degree suggested above, the ability of the Council and OHCHR to make progress in this regard will be greatly improved (see A/HRC/19/50).

42. Another proposal with specific regard to the Voluntary Fund for Financial and Technical Assistance is that the complementary role played by a wide range of stakeholders in the implementation of universal periodic review recommendations needs to be further encouraged and supported. That fund should be re-conceived as a fund that supports not only States and regional groups, but a wide range of stakeholders, including national human rights institutions and local civil society groups (A/HRC/24/56, para.35). The argument put forward is that, with greater technical and financial support, those stakeholders can cooperate with States and regional groups to further engage with the universal periodic review process and encourage the implementation of review recommendations. It is also argued by proponents of this approach that supporting those stakeholders will increase the efficiency of the fund. The idea is that certain non-State stakeholders can help facilitate the implementation of certain recommendations more effectively than States. However, the long-standing debate around the legitimacy, transparency and accountability of civil society actors may constitute an obstacle in this regard.

X. Mainstreaming human rights across the global institutional system

43. The need to mainstream human rights of all categories into every aspect of international relations and cooperation (including trade, migration, intellectual property rights, finance, development and security) is regularly reiterated within the United Nations

system, and in particular by the Human Rights Council and OHCHR.[37] While in practical terms the comparative advantage of ensuring that this mainstreaming actually occurs in a robust and rapid way may not, for various reasons, always lie with either the Council or OHCHR, they continue to bear the primary obligation to campaign and push for its realization, notwithstanding all the attendant conceptual and practical difficulties. One suggested practical way in which the Council and OHCHR can add practical value to this mainstreaming project is to enhance the strategy of inter-agency liaison and cooperation that they already utilize in this regard, for example through the United Nations Development Group's human rights mainstreaming mechanism, which is chaired by OHCHR. They could do this by establishing a high-level focal point (either a person or a unit) as appropriate.

XI. Strengthening human rights cooperation in the field of migration

44. The promotion of international human rights cooperation in the field of migration presents an opportunity to affect positively the human rights of the 232 million migrants worldwide through the better coordination of policymaking and protection efforts. The Sixth Meeting of the Global Forum on Migration and Development, which was held in Mauritius in November 2012 on the theme "Enhancing the human development of migrants and their contribution to the development of communities and States", made major recommendations to countries of both origin and destination in order to combat labour exploitation and human trafficking while protecting victims. For his part, the Special Rapporteur on the human rights of migrants, in a report on climate change and migration, stressed the need for coordinated international cooperation on climate-change-induced migration (A/67/299, paras. 90-93). Receiving States should be encouraged to recognize migrant workers as a vulnerable group and to overcome reluctance to grant migrants equal treatment with nationals with respect to the protection of their human rights. Furthermore, receiving and sending States can work together to create demand-driven systems of migration through bilateral or multilateral labour agreements, such as that concluded between Mauritius and Canada. The integration of migrants into their host societies must be seen as a key component of international cooperation in the field of human rights, since it strengthens respect for core universal human rights values.

XII. Conclusions

45. **The following practical suggestions, many of which could form the basis for immediate action by the Council, have been made in the present report:**

(a) The Committee on Non-Governmental Organizations of the Economic and Social Council, currently made up entirely of States, may need to be restructured to include in some advisory capacity the accredited and legitimate representatives of a variety of civil society actors;

(b) Automatic consultative status with the Human Rights Council could be accorded to developing country civil society organizations that already enjoy similar status with their regional or national human rights institutions;

[37] HRC13/012E, 1 March 2013.

(c) The Council should take steps to enhance support for national human rights institutions, such as increasing funding for existing or new staff and for the exchange of knowledge among similarly situated national human rights institutions;

(d) There is a need to find ways of instituting tracking, monitoring and peer-review mechanisms, such as through the negotiation of an enhanced Declaration on the Right to Development and the mainstreaming of the right to development in the universal periodic review process;

(e) South-South cooperation in the area of human rights, both in its regular and triangular forms, should be deepened by supporting greater human rights cooperation among developing or similarly-situated countries, while using existing capacity in one country to help others. The Technical Aid Corps scheme of Nigeria is an excellent example of this form of existing South-South cooperation that can be deepened and expanded with the support of the Council;

(f) Human rights education should be deepened and enhanced by ensuring that it becomes much more of a two-way street than is currently the case;

(g) The global infrastructure for cooperation in the human rights field needs to be strengthened by:

(i) Greater and more effective international human rights cooperation to better protect migrants around the world, for which there is an urgent need;

(ii) Encouraging the universal ratification of human rights instruments and, as far as possible, the inclusion of all States and actors in the process of international cooperation in the human rights field;

(iii) Consolidating and synchronizing State reporting to reduce "reporting fatigue" among States;

(iv) Increasing the resources available to the subsidiary bodies of the Council and its special procedures;

(v) Coordinating and unifying almost all visits by special procedure mandate holders to a particular country, in order to reduce the amount of resources and time host States spend cooperating with them;

(vi) Implementing a voluntary opt-out system for the issuance of standing invitations to special procedures;

(vii) Improving coordination between the Council and regional bodies, and among regional bodies themselves, by encouraging the establishment of focal points in each body to concentrate on this task and enhancing the use of technology in pursuit of this goal;

(viii) Strengthening the universal periodic review mechanism by mandating the Troika to arrange an informal meeting with the relevant national non-governmental organizations and national human rights institutions immediately before hearings in the Working Group on the Universal Periodic Review and making more practical efforts to include other stakeholders, such as the regional human rights institutions, in the process;

(ix) Providing more resources for special rapporteurs to follow up on their recommendations;

(x) Developing detailed guidelines and/or a model report to assist States in the preparation of universal periodic review mid-term implementation reports, and utilizing an opt-out system for encouraging the submission of such reports;

(xi) Encouraging donor countries to tailor their programmes, at least in part, towards addressing specific universal periodic review recommendations;

(xii) Developing a specific inter-committee follow-up mechanism for all the treaty bodies, for example by utilizing an existing body;

(xiii) Shifting from the current voluntary opt-in funding system for the Voluntary Fund for Financial and Technical Assistance and the Universal Periodic Review Voluntary Trust Fund to an equally voluntary but more structured and effective opt-out system;

(xiv) Focusing much more than has been the case on in-kind contributions of human resources and technological inputs to the Voluntary Fund for Financial and Technical Assistance and the Universal Periodic Review Voluntary Trust Fund;

(xv) Broadening the donor base of the Voluntary Fund for Financial and Technical Assistance and the Universal Periodic Review Voluntary Trust Fund to include many more non-traditional donors;

(xvi) Broadening access to the Voluntary Trust Fund for Financial and Technical Assistance to some degree in order to support not only States and regional groups, but also a wider range of stakeholders, such as national human rights institutions and local civil society groups;

(h) There is also a need to enhance the practical steps already being taken by OHCHR towards the mainstreaming of human rights across the global institutional system by encouraging the establishment of intra-institutional focal points, where they do not already exist, in all the relevant trade, migration, intellectual property, security and development organizations, and by setting up a similar office in the Human Rights Council as appropriate.